

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1, 2, 5-9, 11-13, 28 and 29 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the remarks as set forth below.

#### **Entry of Response**

Applicants submit that full consideration of the present response is appropriate since the amendment only includes rewriting independent claims to include dependent claims. Accordingly, entry of the present Response and full consideration is respectfully requested.

#### **Rejection 35 U.S.C. § 103**

Claims 1-9 and 11-13 stand rejected under 35 U.S.C. 35 § 103 as being obvious over Andrews (U.S. Patent 5,225,163) in view of Burdon et al. (U.S. Patent 6,572,830) and further in view of Bergh et al. (U.S. Patent Publication 2002/0045265). This rejection is respectfully traversed.

First, it is noted that claims 3 and 4 had been canceled so that the rejection is more properly applied to claims 1, 2 5-9 and 11-13. Claim 1 has been amended to include the limitations of claim 10.

The Examiner states that Andrews teaches two chambers with inlets and also teaches the use of reagents, magnets and viewing chambers to assist in the analysis. The Examiner admits that Andrews does not teach that two chambers are formed by three units or that the two analyzing elements are replaceable.

The Examiner relies on Burdon et al. to teach that chambers can be formed by a plurality of layers sintered together and a wide variety of different test may be performed.

The Examiner relies on Bergh et al. to teach fluidic chips that comprise detectors that can be mounted fixedly or detachably on the substrate. The Examiner feels that it would have been obvious to form the Andrews chambers using different units sealed together as taught by Burdon et al. and using a detachable detector as taught by Bergh et al. Applicants submit the present claims are not obvious over this three-way combination of arguments.

First, Applicants submit that there is no motivation to combine these three different teachings. Secondly, Applicants submit that even if combined these teachings do not render the claims obvious. Further, Applicants submit the Examiner has not met his burden of making a proper obviousness rejections.

Secondly, Applicants submit that the Examiner has not provided sufficient motivation to combine these three different types of testing equipment. Thus, Andrews is clearly meant to be an inexpensive and disposable reaction apparatus which has a plate-like member 10. Burdon et al. is obviously meant to be a more complex arrangement which has a series of layers of material. The Bergh et al. device does not appear to be a disposable device at all. Accordingly, Applicants submit that there is not motivation of one of ordinary skill in the art to try to combine these different types of diagnostic devices. Thus, Andrews would not be motivated to use the arrangements shown in Burdon et al. since the Andrews device is a thin disposable device and would not operate properly with a series of layers. Likewise, Andrews would not look to Bergh et al. since it is a much more complex arrangement and would not be workable in such a disposable thin device. Accordingly, Applicants submit the motivation is not provided.

Third, Applicants submit that even if combined these references do not teach all the features of the present claimed invention. Thus, even if the three references are combined, there is no teaching of having three units with the various components as is presently described in claim 1. While Burdon et al. teaches several layers, there is no teaching that the first layer has a fluid inlet, a first upper portion of fluid outlet, that the second lay unit has pipelines, first lower portion, the second upper portion and the third unit has a second lower portion and that the various portions are combined as described in the claim. Further, there is no teaching that the pipelines are sequentially connected to these various portions. There is also no teaching in any of the references of having two target chambers for analyzing elements proposed therein. Applicants submit that since these various features have not been taught in any of the references or their combination that claim 1 is allowable.

Furthermore, Applicants submit that the Examiner has not met his burden of properly producing an obviousness rejection. The Examiner admits that Andrews does not teach that the two chambers are formed by three units. The Examiner relies on Burdon to show a device with layers sintered together. However, the Examiner has not even alleged that two chambers are formed in the device of Burdon et al. Accordingly, Applicants submit that the obviousness rejection is not tenable since it does not indicate that all of the features are either shown or obvious thereover. For these reasons, Applicants submit that claim 1 is allowable. Further the limitations of claim 10 are added to claim 1. Neither Andrews nor Burdon show a bolt to combine the units.

The Examiner relies of Moles to teach the use of bolts to connect two stiff metal platens. The Examiner feels it would have been obvious to use the bolts as taught by Moles in the

sintered layers of Burdon et al. Applicants submit that it would not be obvious to use bolts in the sintered device of Burdon et al. Since the layers of Burdon et al. are sintered there is absolutely no reason to use bolts to hold them together. They are held by the sintering process forming an integral piece. Accordingly, Applicants submit that use of such bolts would not be obvious.

Claims 2, 5-13, 28 and 29 depend from claim 1 and as such are also considered to be allowable. In addition, each of these claims recite other features that make them additionally allowable.

Claim 10 stands rejected under 35. U.S.C. § 103 as being obvious over Andrews in view of Burdon et al. and further in view of Tai et al. (U.S. Patent Publication 2002/0093143) and Moles (U.S. Patent 6,293,012). This rejection is respectfully traversed. Claim 10 is canceled rendering this rejection moot.

The Examiner rejected claims 18 and 19 under 35 U.S.C. § 103 as being obvious over Andrews in view of Burdon et al., Bergh et al. and Tai et al. This rejection is respectfully traversed.

First, Applicants note that claims 18 and 19 have been cancelled. It is assumed that the Examiner meant for this rejection to be applied against claims 28 and 29.

The Examiner relies on Tai et al. to show the use of O-rings. Applicants submit that even if this reference does properly teach the use of O-rings, these claims remain allowable based on their dependency from allowable claim 1.

**CONCLUSION**

In view of the above remarks, it is believed that claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this reconsideration of the rejection and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Paul C. Lewis, Reg. No. 43,368, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant